

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE	)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
	)	Subcategory Docket: 06-CV-11337-PBS
	)	
THIS DOCUMENT RELATES TO	)	Judge Patti B. Saris
	)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc., et al., No.</i>	)	
06-CV-11337-PBS	)	
	)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	
<i>Inc. v. Dey, Inc., et al., No. 05-CV-11084-</i>	)	
PBS; and	)	
	)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	
<i>Inc. v. Boehringer Ingelheim Corp., et al.,</i>	)	
No. 07-CV-10248-PBS	)	

**NOTICE OF FILING OF AMENDED DECLARATION OF  
DAVID S. TORBORG AND CORRECTED OR SUBSTITUTE EXHIBITS**

Defendants Abbott Laboratories, Inc., Dey, Inc., Dey, L.P., Dey, L.P., Inc., Boehringer Ingelheim Roxane, Inc., and Roxane Laboratories, Inc. hereby submit an Amended Declaration of David S. Torborg submitting exhibits in support of Defendants' Combined Local Rule 56.1 Statement of Additional Material Facts Pertinent to the United States' Motions for Partial Summary Judgment Against Defendants, together with certain corrected or substitute exhibits thereto. The corrected or substitute exhibits are as follows:

#	EXHIBIT DESCRIPTION	DEP. EXHIBIT
73	Don M. Newman, Drug Topics, August 1987, (HHC902-1062-67)	N/A
78	HHS DAB Decision No. 1315, 3/18/02	Abbott 1153

#	EXHIBIT DESCRIPTION	DEP. EXHIBIT
103	Maryland Pharmacy Coalition, Federal Deficit Reduction Act Memo, December 2006	Abbott 520
118	Department of Health and Mental Hygiene memorandum with subject, "Office of the Inspector General (OIG) Report on Pharmacy Acquisition Costs," April 16, 1997	Abbott MD 30
135	DHHS Memorandum re: Request for Policy Clarification on Tennessee's Interpretation of Usual and Customary Charges as Applied to Outpatient Drug Reimbursement—Action, 7/3/92	Abbott 579
139	Riordan to Neimann and Reed – FDB AWP's for Injection Infusion and Inhalation Drugs, April 1999	Abbott 136
143	Myers and Stauffer Reimbursement Summaries	N/A
155	7/25/96 Debus Letter to Steffen	Abbott 309
175	Vito Deposition Transcript Excerpt, 6/19/07	N/A
191	Veal Deposition Transcript Excerpt, 3/25/08	N/A
205	Medicare Modernization Act (42 U.S.C. § 1395u(o)(1)(A)(iv))	Abbott 194
210	Niemann Deposition Transcript Excerpt, 9/14/07	N/A

Courtesy copies of the corrected or substituted exhibits will be provided to the Court.

Dated: September 2, 2009

Respectfully submitted,

/s/ R. Christopher Cook

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*Counsel for Defendant Abbott Laboratories Inc.*

**CERTIFICATE OF SERVICE**

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing to be served on all counsel of record electronically by causing same to be posted via LexisNexis File & Serve, this 2<sup>nd</sup> day of September, 2009.

/s/ David S. Torborg  
David S. Torborg